IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

APPEAL FROM ORDER NO. 69 OF 2007
IN
NOTICE OF MOTION NO. 1466 OF 2005
IN
S.C.SUIT NO. 1756 OF 2005
WITH
CIVIL APPLICATION NO. 103 OF 2007

Vijay Viothal Patel @ Dubli ... Appellant

Vs.

Maharashtra Housing and Development
Authority & Anr. Respondents

Mr. S.M.Sakhardande i/b. A.S.Malvankar for Appellant.

Mr. Y.S.Jahagirdar, senior Counsel with Mr. G.W.Mattos AGP and Mrs. G.P.Mulekar, AGP for Respondent No.1.

**CORAM: A.M.KHANWILKAR,J.**

**DATE : 12th February, 2007.**

**P.C.**

1. Heard Counsel for the parties.

2. I see no reason to differ from the conclusion reached by the lower Court in rejecting the Notice of Motion preferred by the appellant-plaintiff. It is not in dispute that the fencing of the disputed plot has already been completed in accordance with demarcation done by the City Survey Officer. The demarcation done

by the City Survey Officer has not been challenged by the appellant-plaintiff so far. At this interlocutory stage, the arrangement will have to be continued till the disposal of the suit.

3. As short question is involved in the suit, the suit be disposed of early by the trial Court as High Court expedited case.

4. It is made clear that it will be open to the appellant to challenge the order of demarcation recorded by the City Survey Officer. Such appeal will have to be considered on its own merits in accordancer with law.

5. The trial Court shall decide the suit uninfluenced by any of the observations made in the impugned order or the dismissal of the Appeal.

6. Copy of the City Survey Plan produced by the Resondent is kept on record.

7. In view of the order in Appeal, the companion Civil Application stands disposed of.

**[A.M.KHANWILKAR, J.]**